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In re Application of:
Pharo, *et al.*
Application No. 09/758,934
Filed: January 11, 2001
For: PERSONNEL GUIDANCE AND
LOCATION CONTROL SYSTEM

DECISION ON PETITION TO
WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the request filed on January 24, 2003, refiled January 30, 2003, and supplemented, via facsimile transmission, on February 06, 2003, to withdraw the holding of abandonment of the above-identified application. The request is being treated as a petition under 37 C.F.R. 1.181 to withdraw the holding of abandonment in the above-identified application. A petition fee is not required.

The petition is **granted**.

An Office action was mailed on June 05, 2002.

Petitioner asserts that the Office action dated June 05, 2002, was not received. The petition includes, *inter alia*, declarations from Liliana Cancion, the Office Administrator in the Office of Robert J. Schaap, and Pauline Barraza, the secretary for Mr. Schaap, copies of the practitioners docket records, and a response to the Office action of June 05, 2002¹. The declarations of Ms. Cancion and Ms. Barraza indicate that a search of the docket records revealed that the petitioner did not receive the Office action. The supplemental petition includes a statement from the practitioner that a search of the file jacket revealed that the petitioner did not receive the Office action. The petition further includes a copy of the practitioner's docket records that demonstrate where the non-received Office action would have been entered had it been received by the practitioner.

¹ The petitioner received a copy of the Office action of June 05, 2002, via facsimile transmission, on December 10, 2002.

A review of the written record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

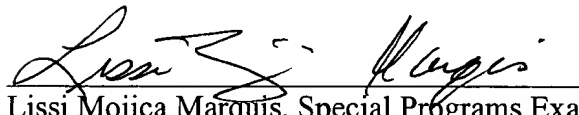
The petition and supporting docket records satisfy the above-stated requirements

For the above stated reason, the petition is granted and the holding of abandonment withdrawn.

The application file is being forwarded to the Technology Center 2800 support staff for remailing of the Office action dated June 05, 2002 and for entering the response to the office action of June 05, 2002.

Thereafter, the application will be forwarded to the examiner for appropriate action.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.



Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
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